

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-218360.2 DATE: June 17, 1985
MATTER OF: Pierce Coal Sales International--
Reconsideration

DIGEST:

Prior decision is affirmed on reconsideration where the protester has not shown any error of fact or law which would warrant its reversal.

Pierce Coal Sales International (Pierce) requests reconsideration of our decision in Pierce Coal Sales International, B-217051, Mar. 1, 1985, 85-1 C.P.D. ¶ 258, denying the firm's protest against a specification in Defense Logistics Agency's (DLA) invitation for bids (IFB) No. DLA600-84-B-0049. The specification required an estimated quantity of 51,000 net tons of bituminous coal with a maximum ash content of 7 percent and a minimum BTU (British thermal unit) value of 14,000 to be delivered to Wright-Patterson Air Force Base, Ohio.

We affirm our prior decision.

In its protest, Pierce, while not objecting to the specified minimum ash content, had objected to specifying a minimum BTU level as well--ostensibly to insure the minimum ash content--contending that there was only a minimal relationship between the two. We held that the government had established support for the combined specification through Air Force testing data which showed a direct linear relationship between BTU value and ash content, and through the Air Force's actual experience using lower BTU value coal at Wright-Patterson. Since Pierce had not shown that the Air Force's conclusions were unreasonable, we found that, at most, there was merely a technical dispute between the protester and the agency and that there thus was no legal basis for our Office to question the IFB requirement. In addition, we found that Pierce had offered no supporting information or documentation for its allegation that the IFB's 14,000 BTU requirement exceeded the commercial standard for coal of 13,000 BTUs.

Pierce contends that we should have concluded that the Air Force's showing of a linear relationship was incorrect, as a technical matter, based on Pierce's submission

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of a report by an industry expert demonstrating the BTU value of coal depends little on its ash content. According to Pierce, it is entirely possible to supply coal of a heating value less than 14,000 BTUs with an ash content below the necessary 7 percent. Pierce also has submitted evidence that purports to establish that the industry standard for coal heating value is 13,000 BTUs.

In addition to reiterating the arguments it raised in our prior decision, DLA responds that the 14,000 BTU requirement is necessary for the effective and efficient operation of the furnaces at Wright-Patterson. DLA states that if Wright-Patterson was required to decrease the specified BTU value of the coal it purchased, the base would have to purchase more coal to obtain the same amount of heating value. The agency emphasizes that this would result in more coal to handle and more wear and tear on the base's furnaces, as well as a greater quantity of ash.

Pierce still has not proven that DLA's specification is unwarranted. Pierce's current attempt to demonstrate that there is no relationship between the heating value of coal and ash content involves, in large part, reargument of its position as asserted in the original bid protest; reiteration of previously-considered arguments, however, does not provide a basis for reconsideration. See System Sciences Inc.--Request for Reconsideration, B-205279.2, Jan. 25, 1983, 83-1 C.P.D. ¶ 90; W. M. Grace, Inc.--Request for Reconsideration, B-202842.2, Sept. 21, 1981, 81-2 C.P.D. ¶ 230. The new technical analysis Pierce offers (which, like the firm's original analysis, admits that there in fact is a direct relationship between BTU value and the quantity of ash that remains after burning) remains rebutted by DLA's own analysis. The fact that Pierce disagrees with DLA's technical judgment does not invalidate it. U.S. PolyCon Corp., B-214791, Oct. 16, 1984, 84-2 C.P.D. ¶ 412.

Also, Pierce still has failed to establish that there is any industry standard on heating value. The evidence Pierce has furnished consists of a number of solicitations and trade documents that describe purchases of coal with a heating value of other than 14,000 BTUs. That evidence, however, only shows that various purchasers buy coal with various BTU values, ash content, and other properties. At best, the evidence only establishes that 14,000 BTUs is not an industry standard, not that 13,000 BTUs is.

Finally, no matter what other buyers might specify, the Air Force's experience with the particular machinery at Wright-Patterson is, as we pointed out in our prior decision, that coal with other than the specified properties simply is unacceptable. In our view, even if Pierce's position is correct in the abstract, the Air Force is not therefore required to discount its own experience.

Pierce thus has failed to establish that our prior decision is founded on an error of law or fact that would warrant its reversal. The decision therefore is affirmed.
4 C.F.R. § 21.12(a) (1985).

Harry R. Van Cleve
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